

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN LAKE,

Plaintiff,

v.

PATRICK COVELLO, et al.,

Defendants.

No. 2:20-cv-0419 TLN CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983. Plaintiff requests that the court appoint counsel. District courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances

////

1 common to most prisoners, such as lack of legal education and limited law library access, do not
2 establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

3 Having considered the factors under Palmer, the court finds that plaintiff has failed to
4 meet his burden of demonstrating exceptional circumstances warranting the appointment of
5 counsel at this time.

6 Plaintiff has also requested a 30-day extension of time. While it is not clear, it appears
7 plaintiff seeks an extension of time to file objections to the court's May 1, 2020 findings and
8 recommendations. So construed, that request will be granted.

9 Finally, plaintiff asks that the court order Assistant Attorney General Monica Anderson to
10 assist plaintiff in locating 8 boxes of his personal property which are missing. The court has no
11 authority to do this. The California Office of the Attorney General generally represents
12 California Department of Corrections and Rehabilitation employees in civil actions. That office
13 is not charged with investigating a prisoner's loss of property.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. Plaintiff's request for the appointment of counsel (ECF No. 12) is denied.

16 2. Plaintiff's motion for an extension of time (ECF No. 12) is granted. Plaintiff is granted
17 30 days from the date of this order to file objections to the court's May 1, 2020 findings and
18 recommendations.

19 3. Plaintiff's request that the court order Assistant Attorney General Monica Anderson to
20 assist plaintiff in locating 8 missing boxes of his personal property is denied.

21 Dated: June 16, 2020

22 
23 CAROLYN K. DELANEY
24 UNITED STATES MAGISTRATE JUDGE